



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ADMINISTRATION

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FROM: Erik Godwin, Director of the Office of Regulatory Reform
SUBJECT: Office of Regulatory Reform FY2018 Annual Report

ORR Annual Report: Making It Easier To Do Business In Rhode Island

July 1, 2017 to June 30, 2018

INTRODUCTION

As part of the Office of Management and Budget, the Office of Regulatory Reform's (ORR) mission is to review new and amended regulations with a focus on minimizing adverse impacts on Rhode Island businesses, large and small. Under the leadership of Governor Gina Raimondo, the State has greatly enhanced its ability to minimize or eradicate regulatory burdens through a rigorous, transparent process that inserts more accountability into the review of Rhode Island's regulatory environment.

The Governor established that process through Executive Order 15-07, which requires ORR to review all executive branch regulations using a model similar to the federal regulatory model. Signed in February 2015, EO 15-07 outlines a process to ensure regulations are not imposing unnecessary burdens on businesses and citizens.

Via the process outlined in the Executive Order, agencies must submit an economic impact statement to accompany their proposed rules to ORR and the Executive Office of Commerce (EOC). EOC then provides any input it deems necessary regarding potential adverse impacts that EOC believes a proposed rule may have on Rhode Island's ability to attract new businesses to invest here, and to encourage existing businesses to grow. ORR reviews these items, and if approved, those proposed rules and impact statements go through a public comment process. Any input from that process goes directly back to ORR for final consideration.

In today's complex regulatory environment, it is more important than ever to have up-to-date, transparent regulations based on rigorous analyses to balance health, safety, welfare, and the environment with the need to minimize regulatory burdens on Rhode Island businesses and individuals. The EO 15-07 process has significant value across the regulatory landscape, particularly for the business community. During regulatory review, regulatory submissions are frequently revised to improve either regulatory language or the accompanying analyses. The bulk of those changes specifically address ways to reduce the burden on regulated communities like small businesses and specific sectors of the economy.

In FY 2018, ORR reviewed and cleared 1,349 agency submissions of new or amended regulations, averaging approximately 112 per month. Of these submissions (and excluding repeals), the regulatory text or analyses of more than half were changed during the EO review. In addition, ORR analysts reviewed 256 technical revisions prepared by the agencies for the APA project. These developments enhance Rhode

Island business practices by eliminating the hampering effects of an outdated, ambiguous regulatory environment in favor of a system that promotes opportunity for unimpeded growth.

ADMINISTRATIVE PROCEDURES ACT 2018

Building a Better Business Environment for Rhode Island

On June 29, 2016, the General Assembly passed and Governor Raimondo signed an update to the Rhode Island Administrative Procedures Act.¹ The law requires all regulations to be resubmitted, reformatted, indexed, and published online in an easily searchable Rhode Island Code of Regulations (RICR). Any regulation not in the new RICR format by January 1, 2019 will no longer have the force of law.

This overhaul of the State’s regulatory landscape is different from past efforts for several reasons, including:

- The process established via Executive Order 15-07 ensures thorough review of the regulation before and after public comment;
- A focus on decoding regulatory text into plain language, which will be especially helpful for start-ups and small businesses that lack the resources to hire an attorney to “translate” regulations;
- Agency training to build capacity within the Departments to continue this work with new regulations and to ensure continuity long after the APA project has been completed; and
- A partnership with the Secretary of State’s Office that will allow for the very first time an easily searchable, indexed set of regulations, where businesses can find everything they need in one place.

I. Project goals:

- Reduce the costs and uncertainty to businesses and citizens of locating applicable laws by creating an organized, searchable online database of all state regulations;
- Provide individuals and businesses with clear information about the requirements for their activities and industries by streamlining and improving regulations;
- Make it easier to do business in Rhode Island by reducing regulatory red tape by 15% of the state’s regulatory volume. ORR is working to identify regulations that increase requirements beyond the statutory provisions.

II. Types of reform efforts generated by the APA:

- Consolidating and streamlining regulatory requirements;
- Removing outdated and onerous requirements;
- Aligning statutory and regulatory requirements;
- Removing non-regulatory language.

III. ORR’s role in the APA effort:

Pursuant to [R.I. General Laws § 42-35-5](#), ORR is responsible for coordinating this effort across executive branch agencies and establishing a phased approach for codification. ORR is committed to accomplishing this effort and provides the following support to agencies to achieve this goal:

- Technical assistance in the structuring and writing of regulations,

¹ Rhode Island Public Law 2016, Chapters 203 and 206.

<http://webserver.rilin.state.ri.us/BillText/BillText16/SenateText16/S3015aa.pdf>.

<http://webserver.rilin.state.ri.us/BillText/BillText16/HouseText16/H7395A.pdf>.

- Policy analysis, specifically addressing unintended consequences of regulatory requirements, and
- Assistance in analyzing the costs and benefits of proposed regulations.

IV. APA Progress to Date:

- The agencies have met their deadlines to date, and are on pace to complete the entire effort by the December 31, 2018 deadline.
- As of August 31, 2018, 99.9% of agencies had submitted their regulations to ORR.
- Agencies reformed 77% of the 1,387 executive branch regulations active at the time the APA was revised in 2016. As a part of this process:
 - 159 regulations were repealed (constituting 11% of the total).
 - 434 regulations were consolidated into 135.
 - 469 regulations were amended.
 - These reforms have reduced the regulatory volume by more than 30%, removing over 8,000 of the 25,842 pages of regulations on the books on July 1, 2016.
- All revised regulations are available in the new Rhode Island Code of Regulations on the RI Secretary of State’s website: <http://sos.ri.gov/divisions/open-government/state/rules-and-regulations>.

Executing the changes brought on by EO 15-07 and the APA has led to the most ambitious regulatory reform process the state’s history. All of the regulations have been modernized to reflect best practices, harmonized with statutory and federal requirements, reviewed for applicability and efficiency, and compiled into a standardized code. For the first time, Rhode Island’s citizens and businesses will have access to the entire body of executive branch regulations in one place in a standardized, searchable format.

APPENDIX: A SAMPLE OF APA SUCCESS STORIES

Aligning Regulations with Legislative Intent	
Issue	ORR received several complaints from the RI Hospitality Association and restaurant owners regarding a restriction on alcohol service during Sunday brunch hours, prohibiting businesses from serving alcohol before noon. The regulations also prohibited daily drink specials.
Process	ORR determined the restrictions existed only in regulation; the statute allows sales to start at ten o’clock in the morning and allows for daily drink specials. These provisions made Rhode Island businesses less competitive and increased their liability, all without a clear health and safety benefit.
Outcome	ORR worked with DBR to amend their liquor licensing regulations to remove this burdensome provision. The result was reduced liability and increased competitiveness for RI restaurants, particularly those near the state borders.

Streamlining Regulations: Consolidating Tax Regulations	
Issue	The Division of Taxation has dozens of regulations concerning the same topic. This fragmentation makes it hard for businesses to know all the requirements that apply to them. For example, there were sixteen regulations dealing with motor vehicle taxes and ten regulations dealing with cigarette taxes. These types of taxes impact small businesses such as convenience stores and dealerships.

Process	ORR worked with Taxation to reorganize and streamline their regulations so that they would be easier for businesses to access.
Outcome	Taxation's cigarette tax regulations went from ten regulations to one regulation, and the motor vehicle tax regulations went from sixteen regulations to one regulation. Businesses now have a one-stop shop to see how they must comply with these taxes.

Supporting Small Business: Child Care Providers	
Issue	In 2012, DCYF and RIDE proposed new guidelines for regulating center-based child care facilities. The regulations were intended to provide better education and safety for children at centers; however, in many ways they contradicted national standards and were economically burdensome to the small business owners of child care centers in the state.
Process	In 2015, DCYF worked with ORR to streamline regulations of child care centers. In merging two separate regulations, DCYF made the standards clear, predictable, and reliable for the significant number of child care small businesses in Rhode Island. The new rules align with national standards and balance the health and safety of children with flexibility for the centers to operate effectively.
Outcome	The accompanying cost-benefit analysis produced by DCYF with ORR's support showed a \$28 million net benefit over five years for the industry. The regulation struck a balance between the needs of the industry and protecting the health and safety of children.

Adopting Best Practice: Modernizing RI's Food Code	
Issue	Up until 2018, RI had been operating off of the 2005 Food Code. This meant that RI restaurants and the food service industry had not been able to take advantage of the latest national standards that reflect current science.
Process	Working with ORR, RIDOH determined it was time to update and consolidate the current Food Code and related regulations by adopting the 2013 Model Food Code. All of the regulations related to the Food Code were consolidated, and the number of RI-specific amendments was minimized.
Outcome	This update, supported by the RI Hospitality Association, is particularly beneficial for retailers that operate establishments in multiple states or have to compete with operations in nearby states.

Updating Recertification Requirements	
Issue	The regulation governing Certification of Food Safety Managers needed to be updated in 2017 due to recent legislative changes removing the requirements that Food Safety Managers must have a bachelor's degree. In addition to those changes, RIDOH and the industry wanted to update the recertification requirement from every three years to every five years. This would require a statutory change.
Process	To change the requirement, a proposal to change the statutory requirement was included in the Governor's proposed budget.
Outcome	The Statute, R.I. Gen. Laws § 21-27-11.5, was amended to reflect the requested change.